

ESTTA Tracking number: **ESTTA135244**Filing date: **04/13/2007**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	78734308
Applicant	Tomberlin Product Group, LLC
Applied for Mark	ANVIL
Correspondence Address	TIMOTHY E. MOSES, ESQ. HULL, TOWILL, NORMAN, BARRETT & SALLEY 801 BROAD ST STE 700 AUGUSTA, GA 30901-1251 UNITED STATES TEMoses@hullfirm.com, dhdupree@hullfirm.com
Submission	Appeal Brief
Attachments	APPEAL BRIEF 04-13-07.pdf (8 pages)(134667 bytes) Exhibit 1.pdf (4 pages)(1276010 bytes) Exhibit 2.pdf (2 pages)(187799 bytes) Exhibit 3.pdf (1 page)(62466 bytes) Exhibit 4.pdf (1 page)(637778 bytes) Exhibit 5.pdf (3 pages)(1516920 bytes) Exhibit 6.pdf (4 pages)(1346335 bytes) Exhibit 7.pdf (4 pages)(1396560 bytes) Exhibit 8.pdf (4 pages)(1348342 bytes) Exhibit 9.pdf (4 pages)(1393868 bytes) Exhibit 10.pdf (4 pages)(1464342 bytes) Exhibit 11.pdf (4 pages)(1499160 bytes) Exhibit 12.pdf (4 pages)(1507628 bytes) Exhibit 13.pdf (2 pages)(164516 bytes) Exhibit 14.pdf (5 pages)(430902 bytes)
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Signature	//TEMoses/20070413//
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BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Mark : ANVIL
Ser. No. : 78/734308
Filing Date : Oct. 17, 2005
Applicant : Tomberlin Product Group, LLC
Correspondent : Timothy E. Moses
Phone : 706.722.4481
Email : TEMoses@hullfirm.com
Examining Attorney : Mrs. A.D. Saunders¹
Law Office : 109

APPEAL BRIEF OF APPLICANT

NOW COMES Applicant in the above matter and files this its appeal brief, and shows the Trademark Trial and Appeal Board (the “**TTAB**”) the following:

1. Basis of Opposition. The Examining Attorney refused to register Applicant’s proposed mark “because the Applicant’s mark, when used on or in connection with the identified goods, so resembles the mark in U.S. Registration No. 2,680,860 as to be likely to cause confusion, to cause mistake, or to deceive.” (Office Action dated April 21, 2006.) Applicant responded to that refusal and asserted reasons why the proposed mark was not confusingly similar to the registered mark. (Response to Office Action dated October 06, 2006.) Thereafter, the Examining Attorney made the refusal final. (Office Action dated November 09, 2006.)

¹ The initial Examining Attorney assigned to this matter was Scott Oslick, who authored the initial Office Action. Thereafter, Mrs. A.D. Saunders appears to have assumed responsibility for this application.

2. Argument and Citation of Authority. Applicant respectfully disagrees with the Examining Attorney's determination and provides the following argument in response.

The basic rule in comparison of marks is that "marks must be considered in their entirety in determining whether there is a likelihood of confusion or mistake." Massey Junior College, Inc. v. Fashion Institute of Technology, 492 F.2d 1399 (1974). In addition to similarity in sound, E.I. DuPont de Nemours & Co., 476 F.2d 1357, 1361 (1973), sets forth twelve (12) other factors that must be considered in testing for likelihood of confusion under Sec. 2(d). While Applicant's mark, ANVIL, is identical in sound and spelling to the registered mark, the other relevant DuPont factors show that the likelihood of confusion, mistake or deception is *non-existent*, or at worst, *minimal*.

a. The Goods Covered by the Marks at Issue are Sufficiently Dissimilar That No Likelihood of Confusion Exists. One of the factors set forth in DuPont cited by the Examining Attorney is the "similarity or dissimilarity and nature of the goods or services as described in an application or registration or in connection with which a prior mark is in use." DuPont, 476 F.2d at 1361. The Examining Attorney has asserted that "The goods are closely related because the same party commonly markets and sells these goods together under the same mark." It is unclear how the Examining Attorney arrived at such a conclusion, but it appears that the goods of both Applicant and Registrant have been construed in a manner that is *excessively* broad.

The goods covered by the registered mark are *indoor, industrial, non-marking, white tires* specifically for forklifts. (See <http://www.lesschwab.com/tires/industrial/nonmark.asp>). Applicant's goods, on the other hand, are *outdoor, electric recreational low speed vehicles ("LSVs")*. (See <http://www.aboutmyplanet.com/environment/electric-lsv-coming-to-a-road-near-you>). Although Applicant's goods do include, as an integrated component, tires, these tires are large, knobby, *black* tires for outdoor, recreational use. Thus, the goods at issue are dissimilar.

The relationship between Applicant's personal, recreational vehicles and Registrant's industrial forklift tires is extremely remote. Compare it to the relationship between NASCAR racing cars and tires produced by Goodyear. Indeed, there exist trademark registrations for "EAGLE" for "racing cars" (Reg. No. 1,127,226) and "tires" (Reg. No. 679,617), both in class 012. (See Exhibit 1, which consists of recent status pages for both EAGLE registrations cited.)

The Goodyear Eagle tires are the dominant tires used on NASCAR racing cars. See:

http://www.racegoodyear.com/nascar/tire_tech.html, a copy of which is attached hereto as Exhibit 2 and incorporated herein. (Also click on the hypertext link "View the comparison of a race tire vs. a street tire" at the bottom of the page, a copy of which is attached hereto as Exhibit 3 and incorporated herein.) See also,

<http://www.tirerack.com/tires/tires.jsp?tireMake=Goodyear&tireModel=Eagle+%231+NASCAR>, a copy of which is attached hereto as Exhibit 4 and incorporated herein. Such dominant use of the Goodyear Eagle tire is readily apparent by viewing NASCAR photos available at:

http://www.nascar.com/multimedia/photo_gallery/ (then click on the link under "Bristol: COT"), portions of which are attached hereto as Exhibit 5 and incorporated herein.

Another example of a trademark registered for both tires and vehicles is the mark "PILOT." This mark is registered to the Honda Motor Company for "motor vehicles, namely SUVs, and structural parts therefore," in Class 012. (Reg. No. 2,769,867). "PILOT" is also registered to Michelin North America, Inc. for "tires" in Class 012. (Reg. No. 1,342,457). (See Exhibit 6 which consists of the status pages for both PILOT registrations cited.)

Yet another example of a mark being allowed to register for vehicles and tires simultaneously is the mark “DAYTONA.” This mark is registered to DaimlerChrysler Corporation for “motor vehicles, namely, passenger cars, trucks, and structural parts and engines therefore,” in Class 012. (Reg. No. 3,184,323). “DAYTONA” is also registered to The Dayton Tire & Rubber Company for “resilient vehicle tires,” in Class 012. (Reg. No. 740,642). (See Exhibit 7 which consists of the status pages for both DAYTONA registrations cited.)

Additional examples of registrations for the same mark for such similar goods in Class 012 include:

NAVIGATOR: Reg. No. 2,111,095 (for “motor vehicles, namely trucks and their structural parts”) and Reg. No. 812,177 (for “tires”) (See Exhibit 8 which consists of recent status pages for both NAVIGATOR registrations cited.);

EXPLORER: Reg. No. 1,193,137 (for “pickup trucks and their structural parts”) and Reg. No. 607,305 (for “tires”) (See Exhibit 9 which consists of recent status pages for both EXPLORER registrations cited.);

CHARGER: Reg. No. 2,985,653 (for “motor vehicles, namely automobiles and structural parts therefore”) and Reg. No. 833,697 (for “tires”) (See Exhibit 10 which consists of recent status pages for both CHARGER registrations cited.); and

SAFARI: Reg. No. 1,567,026 (for “motor vehicles, namely, automobiles and passenger vans, cargo vans, engines therefore, and structural parts thereof) and Reg. No. 714,750 (for “tires”) (See Exhibit 11 which consists of recent status pages for both SAFARI registrations cited.).²

² See also, BAJA: Reg. No. 2,759,819 (for automobiles and structural parts therefore”) and BAJA/T/A, Reg. No. 1,698,352 (for “vehicle tires”). Copies of recent status pages are attached as Exhibit 12 and incorporated herein by reference.

The similarity between passenger vehicles and tires for passenger vehicles, or the similarity between tires and racing cars on which such tires are used, creates *much more* of a likelihood of confusion than the similarity between industrial forklift tires and personal, recreational low speed vehicles. Indeed, by comparison, Applicant's proposed mark is *extremely remote* from the use of the registered mark on industrial forklift tires. As a result, there is *no realistic likelihood of confusion*, or a very remote likelihood of confusion, at worst, between the two marks.

b. The Channels of Commerce Through Which Goods Covered by the Marks are Distributed and Sold are So Dissimilar That No Likelihood of Confusion Exists. Another factor set forth in DuPont is "the similarity or dissimilarity of established, likely-to-continue trade channels." DuPont, 476 F.2d at 1361. The owner of the registered mark is Les Schwab Warehouse Center, Inc. ("Les Schwab"). Les Schwab is a renowned, straight-independent, tire dealer in the Pacific Northwestern United States. (See http://www.lesschwab.com/about_us.asp). These tire service centers are limited to the states of Alaska, Oregon, Washington, Idaho, California, Nevada, Utah and Montana. Thus, the trade channel of the registered mark is limited to the eight-state market in the Pacific Northwest of the United States.

Further, the tires that bear the registered mark are offered and sold *exclusively* by Les Schwab through its network of tire service centers in only those eight (8) states. Thus, the channel of commerce of the registered mark is further limited to Les Schwab tire service centers in the foregoing eight (8) states. Thus, the trade channel in which tires bearing the ANVIL mark are sold is very limited.

Applicant's trade channels, on the other hand, are limited to its own recreational vehicle stores in the states of Georgia and South Carolina. (See <http://www.tomberlin.net/tag/>). Further, the goods on which Applicant's mark are used are marketed and sold exclusively through recreational

vehicle stores, the type that sell motorcycles, ATVs and go-carts. (See <http://www.alphasportsmotors.com/pages/DealerResults2.asp?zipcode=30303>). Applicant's goods are *not* sold at tire dealerships or tire service centers. Thus, when the two channels of commerce are considered, there is *no realistic likelihood of confusion* between Applicant's mark and registered mark.

c. The Conditions Under Which Consumers Select the Services Require Sophisticated Purchasing. Yet another factor set forth in DuPont worthy of consideration is “the conditions under which and buyers to whom sales are made, i.e. ‘impulse’ vs. careful, sophisticated purchasing.” DuPont, 476 F.2d at 1361.

As stated above, the registered mark is used on tires that are offered *exclusively* through Les Schwab's chain of tire service centers. Les Schwab's business, which is exclusively limited to tires and wheels, is where customers go to have tires replaced after market. Thus, “consumers” coming into contact with Les Schwab's ANVIL tires are already in need of *forklift* tires and are looking to replace forklift tires. Indeed, consumers shopping for *industrial*, forklift tires would not normally go shopping for new tires when not needed.

Additionally, “consumers” of Registrant's forklift tires are *industrial* buyers, not the general public. These industrial buyers often have personnel who specialize in purchasing industrial items such as forklifts and replacement tires. Thus, “consumers” of the industrial forklift tires bearing Registrant's mark are usually *sophisticated* businesses. As a result, the transaction involving the “purchase” of Registrant's forklift tires is assured to be a deliberate and thoughtful one; *not* one of impulse. Therefore, the transaction through which industrial tires are purchased by industrial customers affords the potential “consumer” *multiple* opportunities and a substantial amount of time to understand and discern that there is no relation to, or implied association with,

Applicant. Furthermore, when replacement tires are purchased, cost, not brand, is usually the determinant factor of today's consumers.³

On the other hand, consumers shopping for low speed vehicles (LSVs) like Applicant's goods, which cost approximately \$8,000.00, would approach a purchase much like consumers who purchase traditional passenger automobiles. Such purchases are usually approached in a premeditated manner, with plenty of pre-purchase research, comparison and evaluation. Furthermore, LSVs are an entirely new line of vehicular products. (See <http://www.aboutmyplanet.com/environment/electric-lsv-coming-to-a-road-near-you>; http://www.diseno-art.com/encyclopedia/strange_vehicles/tomberlin_anvil.html). Therefore, the amount of examination, consideration and evaluation that consumers will dedicate toward purchasing Applicant's goods is substantial.

Additionally, consumers looking for replacement tires for industrial forklifts simply would not consider retailers who are in the *personal, recreational* vehicle business. Thus, there is virtually no likelihood that Registrant and Applicant would be soliciting the same customers, and no likelihood of confusion or mistake by potential customers. Accordingly, it is inconceivable that such purchasers would be confused as to any relation between Applicant's personal, recreational vehicles and the forklift tires bearing the registered mark.

d. There Have Been No Instances of Actual Confusion Between the Marks.

DuPont also dictates that consideration should be give to "the nature and extent of any actual confusion." DuPont, 476 F.2d at 1361. While this factor alone is not determinant, it certainly should be considered in weighing the *likelihood* of confusion. Applicant has been using the proposed Mark since March, 2006. Registrant has been using the registered mark during the same

³ "Most people think the most important determining factor in a [tire] sale is the price." (Ref: <http://www.tirenews.info/jeep-tires/nokia-tires.php>).


period, and longer. During this time, the proposed Mark has been advertised by Applicant both in print and via the Internet. Further, Applicant's low speed vehicles have been covered as news by various media outlets. (See e.g., http://www.diseno-art.com/encyclopedia/strange_vehicles/tomberlin_anvil.html, a copy of which is attached hereto as Exhibit 13 and incorporated herein by reference;

<http://www.atvillustrated.com/FeaturedStories/StoryDetails.aspx?storyid=184>, a copy of which is attached hereto as Exhibit 14 and incorporated herein by reference. It appears that the registered mark has also been advertised and marketed over the Internet by Registrant. (See <http://www.lesschwab.com/tires/industrial/nonmark.asp>). Despite the similar coverage and Internet marketing, there have been no reported incidents of confusion between Applicant and Registrant. Since there has not been one single incident of confusion between Applicant and Registrant related to the mark ANVIL, the prospect of actual confusion in the future is, at worst, *minimal*.

CONCLUSION

Accordingly, and for the foregoing reasons, Applicant respectfully requests that its appeal be granted, that the Examining Attorney's refusal be reversed and that the application to register the proposed mark be allowed to proceed toward registration.

Respectfully Submitted, this 13th day of April, 2007.

A handwritten signature in black ink, appearing to read "Tim Moks", with a long horizontal stroke extending to the right.

Attorney for Applicant



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Word Mark	EAGLE
Goods and Services	IC 012. US 019. G & S: RACING CARS. FIRST USE: 19660401. FIRST USE IN COMMERCE: 19660401
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	73153261
Filing Date	December 22, 1977
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	September 11, 1979
Registration Number	1127226
Registration Date	December 4, 1979
Owner	(REGISTRANT) ALL AMERICAN RACERS, INC. CORPORATION CALIFORNIA 2334 S. BROADWAY SANTA ANA CALIFORNIA 92707 (LAST LISTED OWNER) ALL AMERICAN RACERS, INC. CORPORATION BY CHANGE OF NAME, BY CHANGE OF NAME, BY CHANGE OF NAME CALIFORNIA 2334 SOUTH BROADWAY SANTA ANA CALIFORNIA 92707
Assignment Recorded	ASSIGNMENT RECORDED
Type of Mark	TRADEMARK

EXHIBIT

Register PRINCIPAL
Affidavit Text SECT 15, SECT 8 (8-YR), SECTION 8(10-YR) 20001019
Renewal 1ST RENEWAL 20001019
Live/Dead
Indicator LIVE

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Typed Drawing

Word Mark	EAGLE
Goods and Services	IC 012, US 035, G & S: Tires. FIRST USE: 19580214, FIRST USE IN COMMERCE: 19580214
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	72055581
Filing Date	July 18, 1958
Current Filing Basis	1A
Original Filing Basis	1A
Registration Number	0679617
Registration Date	June 2, 1959
Owner	(REGISTRANT) GOODYEAR TIRE & RUBBER COMPANY, THE CORPORATION OHIO 1144 EAST MARKET STREET AKRON OHIO 443160001
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	K C WILLIAMS
Prior Registrations	0251857;0593891;AND OTHERS
Type of Mark	TRADEMARK
Register	PRINCIPAL
Renewal	2ND RENEWAL 19960804
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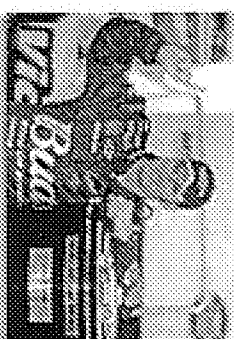
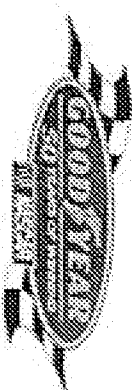
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Goodyear - Official Tire

Although Goodyear's racing involvement began in 1901 with Henry Ford, the relationship between NASCAR and Goodyear did not begin until 1954 when Goodyear conducted tire tests for the NASCAR Convertible Series at Darlington Raceway. Goodyear's first major NASCAR win came in 1959 with Jim Reed's victory in the Southern 500 at Darlington, S.C. Though much has changed over the years, the goal of improving racing performance has remained the same.



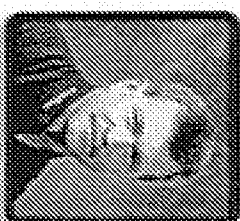
Every champion in NASCAR's premier division since 1908 has used Goodyear tires. Goodyear has been the exclusive tire manufacturer of NASCAR's premier series since 1997. No other brand has won an event in NASCAR's top series since 1994.

The specifications for Goodyear Eagle tires vary slightly depending on the tire position (left sides or right sides) and the type of track at which it is used. Each tire weighs approximately 24 pounds.

On tracks longer than one mile a tubelless inner tire, acting as a safety spare, is required. This technology was developed in 1966 with the introduction of Goodyear's "Lifeguard Inner Liner Safety Spare" and at that time NASCAR mandated its use in all racing tires. Today's consumer benefits with the Goodyear EMT Runflap passenger tire. View a closer look at the "Lifeguard Inner Liner Safety Spare."

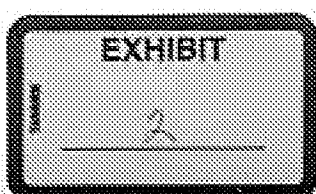


A typical race weekend will see a Goodyear crew of 20-



Rick Campbell
Team Leader,
NASCAR Racing

Jack Campbell joined Goodyear's race tire development in 1979 after receiving his degree in chemical engineering from the College of Wooster. His early life experience includes stock cars and Formula One. In 1997, he was made group leader for stock cars, where he was instrumental in Goodyear's success through two tire wars in 1998-99 and in 1999. In 1998, Campbell was named chief competitor for all of Goodyear's relationships, passenger and. In 1997, he was named chief engineer for the NASCAR series. He's been back in NASCAR as team leader since the 2000 race season.



25 mounting and balancing between 2,000 and 3,500 race tires NASCAR allows each NASCAR NEXTEL Cup Series team three sets of tires for practice and qualifying. A team will average eight to twelve sets.

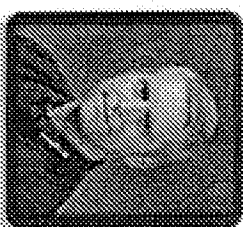
Nearly 1,300 races have been won with Goodyear tires in NASCAR's premier division. Jeff Gordon logged Goodyear's 1,000th victory at Bristol Motor Speedway in April of 1995.

Race Tire vs. Street Tire

On a typical race weekend, a NASCAR NEXTEL Cup Series team will use between nine and 14 sets of tires depending upon the length of the race and type of track - short track, speedway, superspeedway or road course.

By comparison, an average set of street tires gets replaced approximately every three years. NASCAR NEXTEL Cup Series racing tire specifications also differ from race to race depending upon the degree of track banking and type of racing surface (asphalt, concrete, or mixture of both). Goodyear uses about 18 different tire codes to cover the needs of the NASCAR NEXTEL Cup Series during the course of a racing season.

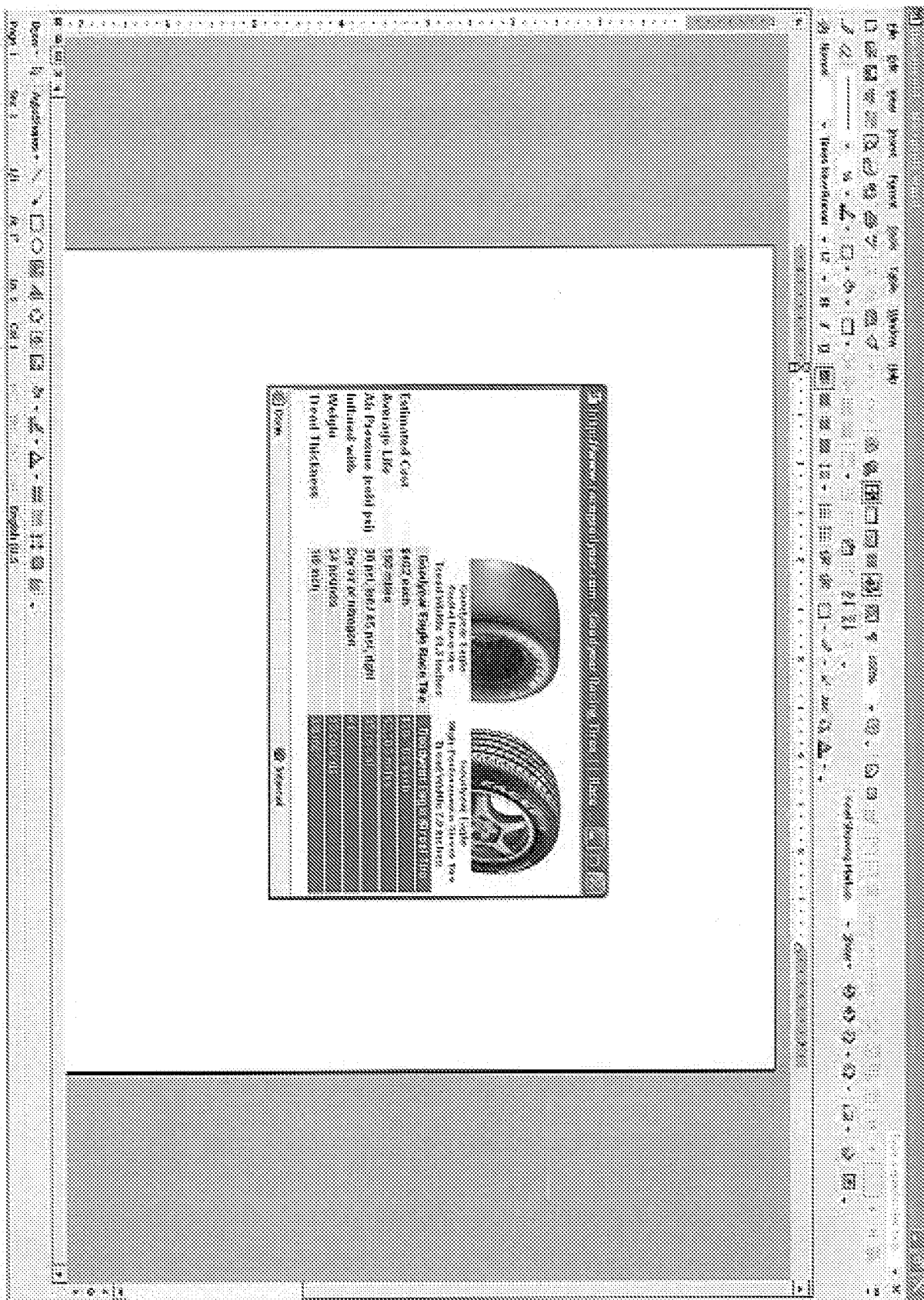
[View the comparison of a race tire vs. a street tire.](#)



Mark Korte
Lead Engineer,
Stock Car Racing

Mark Korte joined Goodyear's racing group with a bachelor's degree in Chemical Engineering from Pennsylvania State University in 1996. Mark Korte joined Goodyear's racing group to work with the sports car tire development team. By early 1997, he shifted to the NASCAR group working as a tire coordinator primarily with the Caterham Truck, Buick and Winston Cup series. Promotion to his current position as lead engineer of the NASCAR group came in October 2001.

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Eagle #1 NASCAR

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// Excellent in every way. I've
Tire Rack again whe
at

If you love NASCAR racing, you're going to love Goodyear's Eagle #1 All-Season performance tire. It's the only tire in the world with NASCAR written all over it...and it's only available from Goodyear.

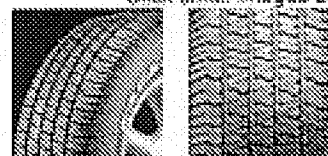
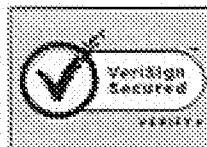
When was the last time you got to burn rubber driving out of the pits at Darlington, Talladega or Watkins Glen? Never? Well now you don't need to be a professional race driver to run on Goodyear Eagle #1 tires.

You can make your Monte Carlo, Grand Prix, Intrepid or Taurus look more like a Cup car...or you can make your vehicle look more like it just left victory circle following a Busch Series, Craftsman Truck or IROC race. By sharing the track-inspired appearance of Goodyear Eagle Racing Radials, Eagle #1 NASCAR street radials offer the authentic race-track-ready look you need.

On the outside, Eagle #1 NASCAR street radials offer the option of proudly displaying the NASCAR logo along with "Goodyear Eagle #1" in white letters on one sidewall or through subtle black logos and letters branded on its other sidewall. Its tread features an aggressive independent block tread design with stable shoulder tread blocks separated by full depth lateral grooves to enhance cornering power while enhancing wet traction, and siped center tread blocks that provide hundreds of biting edges for light snow and slush traction. On the inside, the Eagle #1 NASCAR radial features twin steel belts reinforced by nylon for strength and high speed durability combined with polyester cord body plies to enhance ride comfort.

NASCAR is a registered trademark of the National Association for Stock Car Auto Racing.

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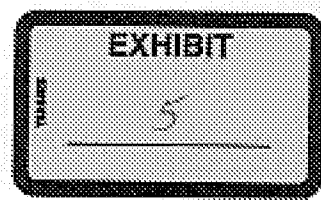
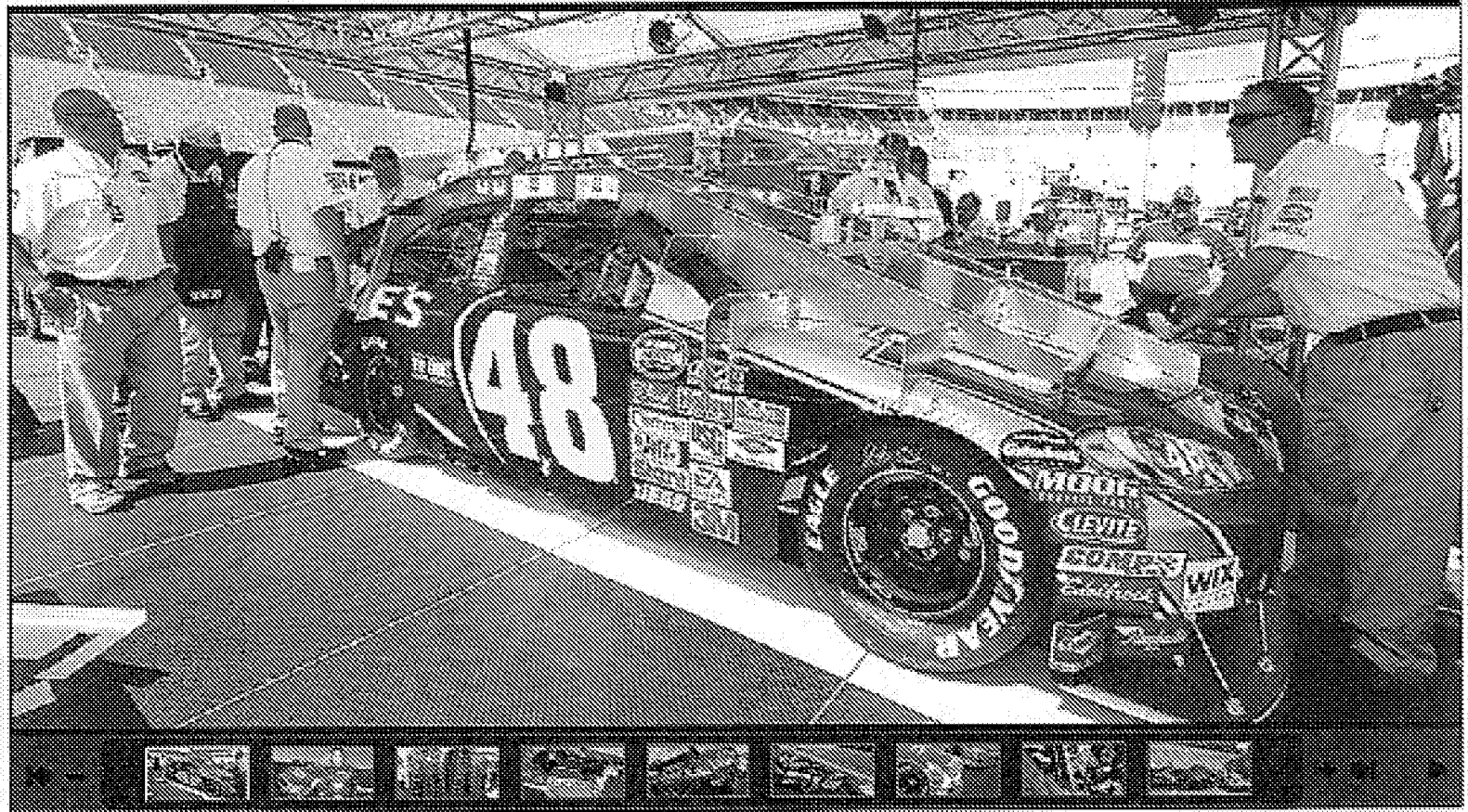
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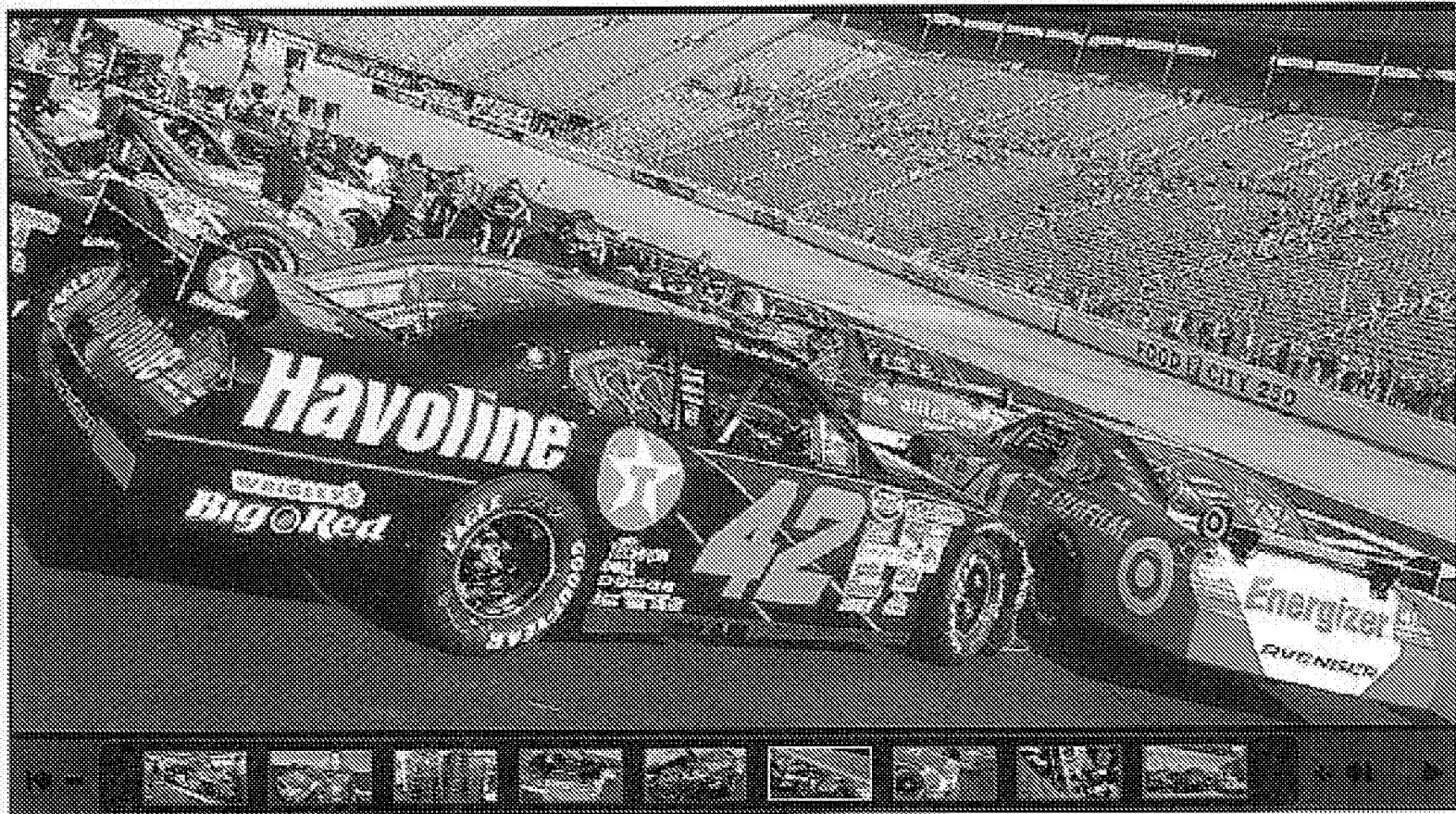
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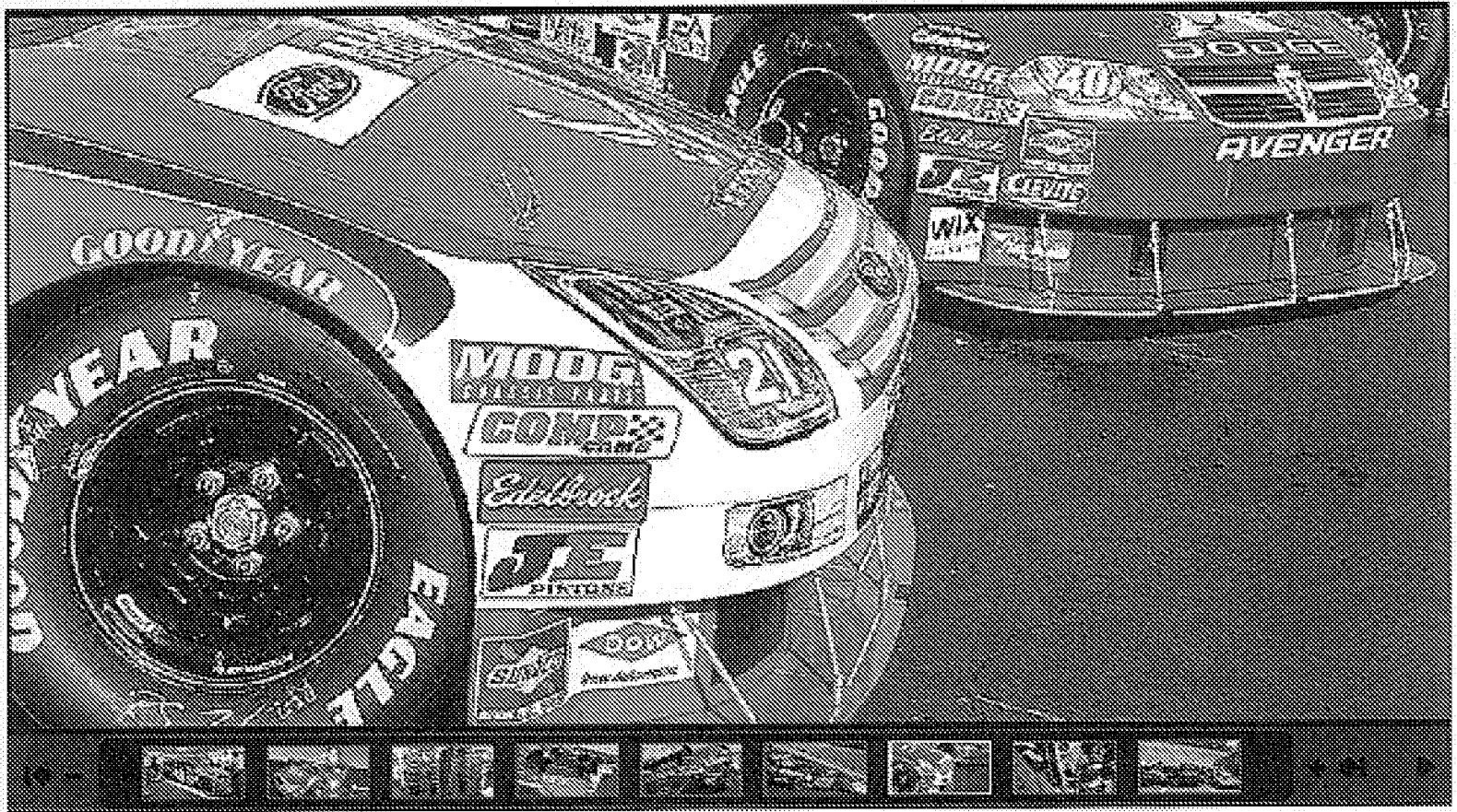
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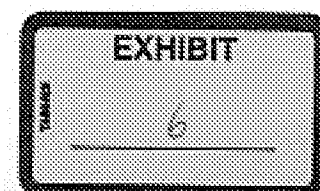
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Word Mark	PILOT
Goods and Services	IC 012, US 019 021 023 031 035 044, G & S: MOTOR VEHICLES, NAMELY SUVs, AND STRUCTURAL PARTS THEREFOR. FIRST USE: 20020600. FIRST USE IN COMMERCE: 20020600
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	76314565
Filing Date	September 19, 2001
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	October 8, 2002
Registration Number	2769867
Registration Date	September 30, 2003
Owner	(REGISTRANT) HONDA GIKEN KOGYO KABUSHIKI KAISHA (Honda Motor Co., Ltd.) CORPORATION JAPAN No. 1-1, 2-Chome Minamiazoyama Minato-Ku, Tokyo 107-8556 JAPAN
Attorney of Record	Anthony L. Fletcher
Prior Registrations	1596250
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead	



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Word Mark	PILOT
Goods and Services	IC 012, US 035, G & S: Tires. FIRST USE: 19840116, FIRST USE IN COMMERCE: 19840116
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	73471576
Filing Date	March 22, 1984
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	April 9, 1985
Registration Number	1342457
Registration Date	June 18, 1985
Owner	(REGISTRANT) Michelin Tire Corporation CORPORATION NEW YORK One Marcus Ave. Lake Success NEW YORK 11042 (LAST LISTED OWNER) MICHELIN NORTH AMERICA, INC. CORPORATION NEW YORK One Parkway South Greenville SOUTH CAROLINA 29605
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Fred W. Hathaway,
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15, SECT 8 (8-YR), SECTION 8(10-YR) 20050828.

Renewal 1ST RENEWAL 20050828

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 (Use the "Back" button of the Internet Browser to return to TESS)**Typed Drawing**

Word Mark	DAYTONA
Goods and Services	IC 012, US 019 021 023 031 035 044, G & S: MOTOR VEHICLES, NAMELY, PASSENGER CARS, TRUCKS, AND STRUCTURAL PARTS AND ENGINES THEREFOR. FIRST USE: 20050700. FIRST USE IN COMMERCE: 20050700
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	78159546
Filing Date	August 30, 2002
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	May 16, 2006
Registration Number	3184323
Registration Date	December 12, 2006
Owner	(REGISTRANT) DAIMLERCHRYSLER CORPORATION CORPORATION DELAWARE 1000 CHRYSLER DRIVE AUBURN HILLS MICHIGAN 48326
Attorney of Record	AMANDA L CONTI-DUHAIME
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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TARF Status	ASSIGN Status	TMR	TTAB Status
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 (Use the "Back" button of the Internet Browser to return to TESS)**Typed Drawing**

Word Mark	DAYTONA
Goods and Services	IC 012, US 035, G & S: Resilient Vehicle Tires. FIRST USE: 19610325. FIRST USE IN COMMERCE: 19610325
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	72124429
Filing Date	July 21, 1961
Current Filing Basis	1A
Original Filing Basis	1A
Registration Number	0749842
Registration Date	November 13, 1962
Owner	(REGISTRANT) Dayton Tire & Rubber Company, The CORPORATION OHIO 2342 W. RIVERVIEW AVE. Dayton OHIO (LAST LISTED OWNER) BFS BRANDS, LLC CORPORATION BY ASSIGNMENT, BY CHANGE OF NAME, BY ASSIGNMENT, BY ASSIGNMENT, BY ASSIGNMENT, BY MERGER DELAWARE 50 CENTURY BOULEVARD NASHVILLE TENNESSEE 37214
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	ANDREW B. MORTON
Prior Registrations	0575424;0667438

Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20030222.
Renewal 2ND RENEWAL 20030222
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Indicator LIVE

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TARL Status	ASSIGN Status	TIRL	TTAB Status
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Word Mark	NAVIGATOR
Goods and Services	IC 012. US 019 021 023 031 035 044. G & S: motor vehicles, namely trucks and their structural parts. FIRST USE: 19970512. FIRST USE IN COMMERCE: 19970512
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	74696021
Filing Date	June 30, 1995
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	November 7, 1995
Registration Number	2111095
Registration Date	November 4, 1997
Owner	(REGISTRANT) FORD MOTOR COMPANY CORPORATION DELAWARE The American Road Dearborn MICHIGAN 48121
Attorney of Record	ELIZABETH F. JANDA
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 6 (6-YR).
Live/Dead Indicator	LIVE

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NAVIGATOR

Word Mark	NAVIGATOR
Goods and Services	IC 012, US 035, G & S: TIRES. FIRST USE: 19650610. FIRST USE IN COMMERCE: 19650810
Mark Drawing Code	(S) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Design Search Code	
Serial Number	72225140
Filing Date	August 6, 1965
Current Filing Basis	1A
Original Filing Basis	1A
Registration Number	0812177
Registration Date	August 2, 1966
Owner	(REGISTRANT) GOODYEAR TIRE & RUBBER COMPANY, THE CORPORATION OHIO 1144 E. MARKET ST. AKRON OHIO 44316
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECTION 8(10-YR) 20060803.
Renewal	2ND RENEWAL 20060803

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TAMR Status	ASSIGN Status	TDR	TTAB Status
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Word Mark EXPLORER
Goods and Services IC 012, US 019, G & S: Pick Up Trucks and Their Structural Parts, FIRST USE; 19730300.
FIRST USE IN COMMERCE: 19730300
Mark Drawing Code (1) TYPED DRAWING
Design Search Code
Serial Number 73300648
Filing Date April 20, 1981
Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition January 12, 1982
Registration Number 1193137
Registration Date April 6, 1982
Owner (REGISTRANT) Ford Motor Company CORPORATION DELAWARE The American Rd.
Dearborn MICHIGAN 48121
Attorney of Record ELIZABETH F JANDA
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15, SECT 8 (6-YR), SECTION 8(10-YR) 20020418.
Renewal 1ST RENEWAL 20020418
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Typed Drawing

Word Mark	EXPLORER
Goods and Services	IC 012, US 035, G & S: TIRES. FIRST USE: 19540925. FIRST USE IN COMMERCE: 19540925
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	71674593
Filing Date	October 15, 1954
Current Filing Basis	1A
Original Filing Basis	1A
Registration Number	0607305
Registration Date	June 14, 1955
Owner	(REGISTRANT) KELLY-SPRINGFIELD TIRE COMPANY, THE CORPORATION MARYLAND 12501 WILLOW BROOK ROAD, S.E. CUMBERLAND MARYLAND 215022599 (LAST LISTED OWNER) GOODYEAR TIRE & RUBBER COMPANY, THE UNKNOWN 1144 EAST MARKET STREET AKRON OHIO 443160001
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	K C WILLIAMS
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECTION 5(10-YR) 20050826

Renewal 3RD RENEWAL 20050826
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TARR Status	ASSIGN Status	TDR	TTAB Status
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Word Mark	CHARGER
Goods and Services	IC 012. US 019 021 023 031 035 044. G & S: motor vehicles, namely automobiles and structural parts therefor. FIRST USE: 20050430. FIRST USE IN COMMERCE: 20050430
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	76061938
Filing Date	June 2, 2000
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	March 19, 2002
Registration Number	2985853
Registration Date	August 16, 2005
Owner	(REGISTRANT) DAIMLERCHRYSLER CORPORATION CORPORATION DELAWARE 1000 Chrysler Drive CIMS 483-02-19 Auburn Hills MICHIGAN 483262766
Attorney of Record	William J. Coughlin
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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CHARGER

Word Mark	CHARGER
Goods and Services	IC 012, US 035, G & S: TIRES, FIRST USE: 19660328, FIRST USE IN COMMERCE: 19660328
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Design Search Code	
Serial Number	72244415
Filing Date	April 27, 1966
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	May 30, 1967
Registration Number	0833697
Registration Date	August 15, 1967
Owner	(REGISTRANT) KELLY-SPRINGFIELD TIRE COMPANY, THE CORPORATION MARYLAND CUMBERLAND MARYLAND
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	K C WILLIAMS AND F A CICH
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15, SECTION 8(10-YR) 2007D120.

Renewal 2ND RENEWAL 20070120

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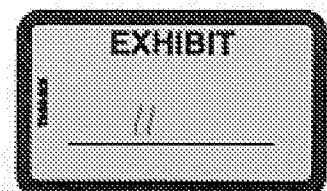
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Typed Drawing

Word Mark	SAFARI
Goods and Services	IC 012. US 019 023. G & S: MOTOR VEHICLES; NAMELY, AUTOMOBILES AND PASSENGER VANS, CARGO VANS, ENGINES THEREFOR, AND STRUCTURAL PARTS THEREOF. FIRST USE: 19551231. FIRST USE IN COMMERCE: 19561231
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	73791833
Filing Date	April 7, 1989
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	August 29, 1989
Registration Number	1567026
Registration Date	November 21, 1989
Owner	(REGISTRANT) GENERAL MOTORS CORPORATION CORPORATION DELAWARE 3044 WEST GRAND BOULEVARD DETROIT MICHIGAN 48202
Attorney of Record	TIMOTHY G. GORBATOFF, ESQ.
Prior Registrations	103446B; 1470781; AND OTHERS
Type of Mark	TRADEMARK
Register	PRINCIPAL



Affidavit Text SECT 15, SECT 8 (6-YR).
Renewal 1ST RENEWAL 20000202
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SAFARI

Word Mark	SAFARI
Goods and Services	IC 012. US 035. G & S: Tires. FIRST USE: 19600830. FIRST USE IN COMMERCE: 19600830
Mark Drawing Code	(S) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Design Search Code	
Serial Number	72104835
Filing Date	September 20, 1960
Current Filing Basis	1A
Original Filing Basis	1A
Registration Number	0714750
Registration Date	May 2, 1981
Owner	(REGISTRANT) KELLY-SPRINGFIELD TIRE COMPANY, THE CORPORATION MARYLAND CUMBERLAND MARYLAND
	(LAST LISTED OWNER) GOODYEAR TIRE & RUBBER COMPANY, THE CORPORATION BY ASSIGNMENT OHIO 1144 EAST MARKET STREET AKRON OHIO 443160001

Assignment

Recorded ASSIGNMENT RECORDED
Attorney of Record K C WILLIAMS
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECTION 8(10-YR) 20010818
Renewal 2ND RENEWAL 20010818
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Word Mark	BAJA
Goods and Services	IC 012. US 019 021 023 031 035 044. G & S: Automobiles and structural parts therefore. FIRST USE: 20020820. FIRST USE IN COMMERCE: 20020820
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	76308246
Filing Date	September 4, 2001
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	December 3, 2002
Registration Number	2759819
Registration Date	September 2, 2003
Owner	(REGISTRANT) Subaru of America, Inc. CORPORATION NEW JERSEY 2235 Route 70 West Cherry Hill NEW JERSEY 08002 (LAST LISTED OWNER) SUBARU INVESTMENT, INC. CORPORATION DELAWARE 900 MARKET STREET WILMINGTON DELAWARE 198013012
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Lynn M. Jordan
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE



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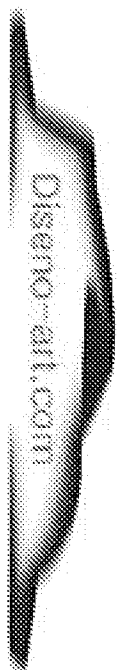
 (Use the "Back" button of the Internet Browser to return to TESS)**Typed Drawing**

Word Mark	BAJA T/A
Goods and Services	IC 012, US 035, G & S: vehicle tires. FIRST USE: 19910300. FIRST USE IN COMMERCE: 19910300
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	74081367
Filing Date	May 21, 1990
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	April 9, 1991
Registration Number	1698352
Registration Date	June 30, 1992
Owner	(REGISTRANT) UNIROYAL GOODRICH TIRE COMPANY, THE PARTNERSHIP DELAWARE 600 South Main Street Akron OHIO 443970001 (LAST LISTED OWNER) MICHELIN NORTH AMERICA, INC. CORPORATION BY ASSIGNMENT, BY CHANGE OF NAME, BY ASSIGNMENT, BY ASSIGNMENT, BY ASSIGNMENT NEW YORK ONE PARKWAY SOUTH GREENVILLE SOUTH CAROLINA 29615
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Alan A. Csontos

Prior Registrations 0920199
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15, SECT 8 (6-YR), SECTION 8(10-YR) 20020918.
Renewal 1ST RENEWAL 20020918
Live/Dead Indicator LIVE

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The ANVIL, from American ATV maker Tomberlin is an LSV (Low Speed Vehicle) legal for road use on low speed-limit urban roads.

Powered by an all-electric drivetrain charged through a standard 110 volt outlet and regenerative braking, the ANVIL has a range of over 40 miles and a limited top speed of 25 mph.

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Tomberlin also claim that the economical and environmentally friendly ANVIL can go up to 50 miles for one dollars worth of power. Yet unlike many similar eco-friendly vehicles the ANVIL has a rather attractive and



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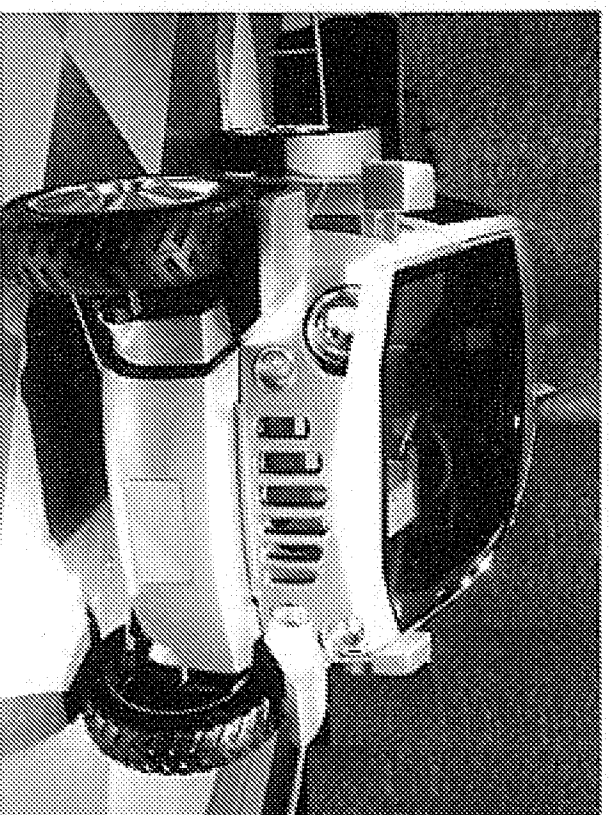
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13

robust appearance which can only help potential sales.

A multi-configuration seating layout allows for the rear bench seats to be folded flat giving the ANVIL a small truck-like cargo area behind the two front seats.

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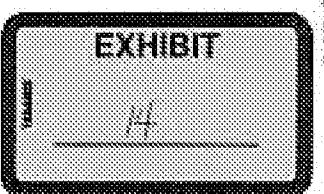
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E-Merge, Anvil LSVs

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The Tomberlin Group, an international manufacturer and distributor of on-road and off-road vehicles including youth ATVs and go-karts, has announced its entry into the Low-Speed Vehicle (LSV) market with the introduction of its E-Merge and Anvil vehicles. The firm will initially have about 100 dealers in its 400-dealer network carry the vehicles, with new dealers being added as necessary.

An LSV is a vehicle capable of speeds of up to 25 mph and which can operate legally in almost all states on



roads with speed limits up to 35 mph. Vehicles in this category have seat belts, lighting and special windshields, along with other safety equipment. Drivers must be licensed and comply with all state and local rules for automobiles, including insurance and registration (according to the company, insurance rates will be affordable due to the lower-speed operating environment and the low cost of the vehicle and components).

Mike Tomberlin, CEO of the Tomberlin Group, noted that the company first had the concept of an LSV about three years ago, "but in the last year progress has really accelerated with the acquisition of key leadership from the automotive and electric vehicle industries. Now is an exciting time to present to the public an affordable, practical, fun vehicle for running errands and local commuting. It's also a viable alternative to paying high gas prices." In addition, both vehicles will have accessories such as doors and heated seats available to meet specific weather and climate needs, so they will not be just "fair-weather" vehicles.

The company is convinced that the LSV market is unlimited and presently relatively untapped. The E-Merge and Arvit, it believes, will appeal to such potential customers as residents in urban and suburban neighborhoods, municipal governments, security firms, college campuses, airports, and local commuters. It's estimated that there are approximately 200,000 used golf carts and utility vehicles that are not street-legal sold every year, leaving the market open for brand-new vehicles that fit that bill.

THE E-MERGE

The E-Merge, which will be available in September of

this year, is a small, two-passenger, street-legal electric car that can charge overnight on a standard 110-volt outlet and has a range in excess of 30 miles. It is targeted to individuals who need to run errands and / or commute to and from work, and for general recreation in their own local communities. Its powerplant will generate almost 11 kilowatts, giving it a top speed of 25 mph and the ability to aggressively climb hills. The E-Merge has four-wheel braking, seat belts, flip-over bar, lights, and is street-legal. The target price point is \$4,500, not much more expensive than a used golf cart, and a financing program is available.

THE ANVIL

The Anvil is a no-compromise "neighborhood vehicle" that will be available the end of this year. It is a purpose-built vehicle designed from the ground up, says Tomberlin, to meet the needs of the local commuter. Its wheel track is wider than some automobiles, which adds to stability and safety. The rear axle has also been pushed back to accommodate a folding, forward-facing rear seat.

"It is a utility and multi-purpose truck with over 48 inches between the wheel wells," noted Mike Tomberlin. "Its large trunk can be useful when running errands, and on weekends the rear seats can be folded up so a family of four can comfortably ride together."

The Anvil is electric and will use reliable lead-acid batteries that can charge overnight on a standard 110-volt outlet, giving the vehicle a range of over 40 miles. Shortly after launch, a hybrid version will be available that will have an increased range of over 100 miles. The Anvil's peak power output will be over 25 kilowatts, allowing it to accelerate quickly, climb most hills at top speed and not impede traffic. According to the company, the Anvil can go 50 miles on \$1.00 in power, while an automobile can only go about five miles—a difference of ten times the range for the same amount of money. Tomberlin also says that the Anvil's MSRP of \$7,000 will make it the most affordable vehicle in its market.

CONTACT INFORMATION

For further information about Tomberlin's E-Merge and Anvil vehicles, contact Dewey Holland, President (dholland@tomberlin.net), or David Hamilton, VP of Sales and Marketing

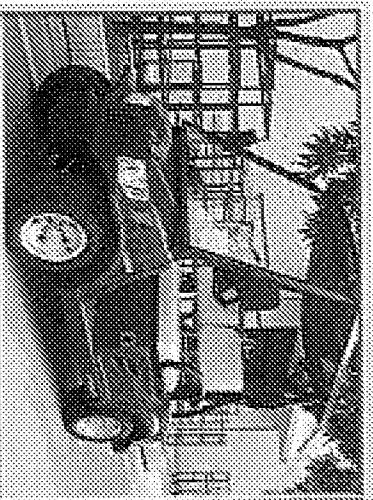
(dhamillan@tomberlin.net), at 706 / 860-8880, write to them at Tomberlin Automotive Group, 3123 Washington Rd., Augusta, GA 30907 or visit the company's website at <http://www.tomberlin.net>.

SPECIFICATIONS: 2007 TOMBERLIN E-MERGE*

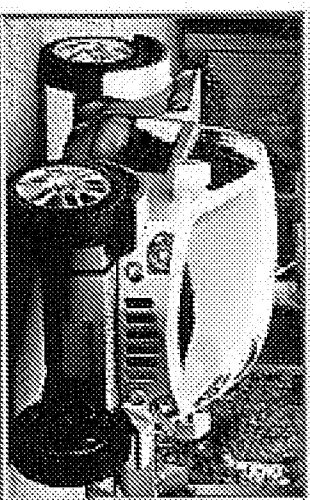
- Length: 92"
- Width: 48"
- Height: 68"
- Voltage: 48-volt, six eight-volt lead / acid batteries
- Max. Power: 12.5 kilowatts
- Max. Range: 30+ miles
- Max. Speed: 25 mph
- MSRP: \$4,500
- Braking: 4-wheel, downhill regenerative
- Seat belts: 3-point, for two persons
- Cargo trunk: Standard
- Lighting: Headlamps, tail lamps, turn signals, high-mount-center lamp
- Wheels: Aluminum
- Street-legal: On roads with a speed limit up to 35 mph in most states

SPECIFICATIONS: 2007 TOMBERLIN ANVIL*

- Length: 103"
- Width: 72"
- Height: 68"
- Voltage: 72-volt, six 12-volt lead / acid batteries
- Max. Power: 28.8 kilowatts
- Max. Range: 40+ miles
- Max. Speed: 25 mph
- MSRP: \$7,000
- Braking: 4-wheel, downhill regenerative
- Rear Seat: Folding, forward-facing
- Seat Belts: 3-point for two persons in front, 2-point



E-MERGE



ANVIL



lap belts in rear

- **Cargo Area:** Center closed
- **Lighting:** Headlamps, tail lamps, turn signals, high-mount-center lamp
- **Battery Charger:** On-board, overnight 110-volt
- **Wheels:** Aluminum
- **Street-legal:** On roads with a speed limit up to 35 mph in most states

**Preliminary product specifications at time of publication, subject to change.*

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